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Attorneys for Defendant
VALSPAR CORPORATION

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

REBECCA RUST, an individual, Plaintiff, v. ASHLEY FURNITURE INDUSTRIES, INC., dba ASHLEY FURNITURE HOMESTORE; VALSPAR CORPORATION DOES 1 to 25, Defendant.	Case No. **NOTICE OF REMOVAL** JURY TRIAL DEMANDED

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NOTICE OF REMOVAL

Defendant Valspar Corporation ("Valspar"), through its counsel, pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes this action filed by Plaintiff Rebecca Rust (hereafter "Plaintiff"), from the Superior Court of the California, County of Los Angeles, to the United States District Court for the Central District of California, which is the judicial district and division in which the action is pending. Valspar makes this removal on the following grounds:

JURISDICTIONAL BASIS FOR REMOVAL

1. On or about August 7, 2015, Plaintiff filed a Complaint against Valspar and Defendant Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore ("Ashley Furniture") in the Superior Court of the California, County of Los Angeles. (*See* Summons and Complaint, copies of which are attached hereto as Exhibit 1.) In the Complaint, Plaintiff asserts causes of action against both defendants for general negligence and products liability in relation to an allegedly defective bed. (*See* Complaint, Exh. 1, at pp. 4-5.) Specifically, Plaintiff claims that she sustained "serious physical injuries and damages" when the slats of a bed she was lying on broke, causing the bed to collapse. (*See id*., at p. 4.)

2. Valspar was served with the Summons and Complaint on August 17, 2015. (*See* Proof of Service of Summons on Valspar, attached hereto as Exh. 2). There is no proof of service of Ashley Furniture on file in the Superior Court action, and Ashley Furniture has not yet appeared in this action. Therefore, on information and belief, Ashley Furniture has not yet been served and need not consent to this removal. 28 U.S.C. § 1446(b)(2)(A).

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1332 and 1441(b) because (1) there is complete diversity of citizenship between the Plaintiff and the Defendants; and (2) the amount in controversy exceeds $75,000, exclusive of interest and costs.

4. Plaintiff filed suit in California and alleges that she was injured in

California. (*See* Ex. 1 at p. 4.). Plaintiff's counsel has confirmed that Plaintiff was injured at home, which is listed in the Complaint as 7005 Elmos Street, Apr. A, Tujunga, California 91042. (*See* Declaration of Sarah E. Johnston at ¶ 3; *see* Ex. 1 at p. 4.)[1] Therefore, pursuant to 28 U.S.C. § 1332(c)(1), Plaintiff is a citizen of California.

5. Valspar is, and at the time of filing of this action was, incorporated in the State of Delaware with its principal place of business in Minnesota. Therefore, pursuant to 28 U.S.C. § 1332(c)(1), Valspar is a citizen of both Delaware and Minnesota. Valspar is not a citizen of California.

6. On information and belief, Ashley Furniture is, and at the time of filing of this action was, incorporated in the State of Wisconsin with its principal place of business in Wisconsin. Therefore, pursuant to 28 U.S.C. § 1332(c)(1), Valspar is a citizen of Wisconsin. Valspar is not a citizen of California.

7. The money damages sought by Plaintiff exceed $75,000, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a). Although the prayer does not specify an exact amount claimed, Plaintiff claims to have suffered "serious physical injuries and damages" as a result of her use of an allegedly defective product. (*See* Ex. 1, at p. 4.) It is widely recognized that personal-injury claims facially meet the $75,000 jurisdiction threshold. *See, e.g., In re Rezulin Prods. Liab. Litig.*, 133 F. Supp. 2D 272, 296 (S.D.N.Y. 2001) (finding that a complaint alleging injuries from taking a prescription medication "obviously asserts a claim exceeding $75,000"); *see also, White v. FCI USA, Inc.*, 319 F.3d 672, 674 (5th Cir. 2003) (amount in controversy in excess of 75,000 facially apparent in a personal injury case).

/ / /

[1] This Court has broad discretion to find facts pertinent to jurisdiction, and is permitted to consider declarations outside the pleadings in order to do so. *See Adler v. Fed. Republic of Nigeria*, 107 F.3d 720, 728 (9th Cir. 1997).

TIMELINESS OF REMOVAL

7. "Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons . . . to file the notice of removal." 28 U.S.C. § 1446(b)(2)(B). Valspar was served with summons and complaint on August 17, 2015. Therefore, Valspar filed this Notice of Removal within thirty days of the date it was served with this removable action, and within the time prescribed for filing this Notice of Removal under 28 U.S.C. § 1446.

PROCEDURAL REQUIREMENTS FOR REMOVAL

8. Plaintiff filed this case in the Superior Court of the California, County of Los Angeles. The United States District Court for the Central District of California embraces Los Angeles County. 28 U.S.C. § 93(b). Thus, this Court is a proper venue for this action.

9. A copy "of all process, pleadings, and orders" filed in this action are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). (*See* Complaint, attached hereto as Exh. 1, and Proof of Service of Summons on Valspar, attached hereto as Exh. 2.)

10. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been served on counsel for Plaintiff as evidenced by the accompanying certificate of service. A true and correct copy of the Notice of Removal, with attached exhibits, will be filed concurrently with the Clerk of the Superior Court of California, County of Los Angeles.

11. There is no proof of service of Defendant Ashley Furniture on file in the Superior Court action. Ashley Furniture has not yet appeared in this action. Therefore, on information and belief, Ashley Furniture has not been served and need not consent to removal. 28 U.S.C. § 1446(b)(2)(A).

12. Accordingly, all procedural requirements have been met, and this case is properly removed to the United States District Court.

WHEREFORE, Valspar hereby removes this action from the Superior Court of the California, County of Los Angeles to this United States District Court for the Central District of California.

Respectfully submitted,

Dated: September 16, 2015

BARNES & THORNBURG LLP

By: ______________________

Andrew J. Detherage
Sarah E. Johnston
Attorneys for Defendant
VALSPAR CORPORATION

PROOF OF SERVICE

I, Jerod Williams, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2029 Century Park East, Suite 300, Los Angeles, California 90067. On September 15, 2015, I served a copy of the within document(s):

NOTICE OF REMOVAL

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.

☐ by placing the document(s) listed above in a sealed __________ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a __________ agent for delivery.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Richard P. Petersen
THE LAW OFFICES OF RICHARD P. PETERSEN
2015 Montrose Avenue
Montrose, CA 91020

Attorneys for Plaintiff
Rebecca Rust

Phone: (818) 957-5832
Fax: (818) 541-9165

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 15, 2015, at Los Angeles, California.

Jerod Williams

CT Corporation

Service of Process Transmittal
08/17/2015
CT Log Number 527660781

TO: Joe Thomson
The Valspar Corporation
303 S 9th St
Minneapolis, MN 55402-3303

RE: **Process Served in California**

FOR: The Valspar Corporation (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Rebecca Rust, Pltf. vs. Ashley Furniture Industries, et al. including Valspar Corporation, Dfts.
DOCUMENT(S) SERVED:	Summons, Notice, Fourth Amended Order, Third Amended Order, Cover Sheet, Complaint, Cause
COURT/AGENCY:	Los Angeles County - Superior Court - Hill Street, CA Case # BC590398
NATURE OF ACTION:	Personal Injury - Failure to Maintain Premises in a Safe Condition - 08/31/2014 - 7005 Elmos Street. Apt. A, Tujunga, CA 91042
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Los Angeles, CA
DATE AND HOUR OF SERVICE:	By Process Server on 08/17/2015 at 14:57
JURISDICTION SERVED :	California
APPEARANCE OR ANSWER DUE:	Within 30 days after service
ATTORNEY(S) / SENDER(S):	Richard P. Petersen Law Offices of Richard P. Petersen 2015 Montrose Avenue Montrose, CA 91020 818-957-5832
ACTION ITEMS:	CT has retained the current log, Retain Date: 08/18/2015, Expected Purge Date: 08/23/2015 Image SOP Email Notification, Joe Thomson jthomson@valspar.com Email Notification, Shannon Casey scasey@valspar.com Email Notification, Kristi McMahon kristi.mcmahon@valspar.com
SIGNED:	C T Corporation System
ADDRESS:	818 West Seventh Street Los Angeles, CA 90017
TELEPHONE:	213-337-4615

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

AUG 0 7 2015

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation
DOES 1 to 25

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Rebecca Rust, an individual

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center *(www.courtinfo.ca.gov/selfhelp)*, your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site *(www.lawhelpcalifornia.org)*, the California Courts Online Self-Help Center *(www.courtinfo.ca.gov/selfhelp)*, or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*¡**AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), *en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), *en el Centro de Ayuda de las Cortes de California,* (www.sucorte.ca.gov) *o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California
111 North Hill Street
Los Angeles, CA 90012

CASE NUMBER: *(Número del Caso):* BC590898

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Law Offices of Richard P. Petersen 136577
2015 Montrose Avenue (818) 957-5832
Montrose, CA 91020

DATE: *(Fecha)* SHERRI R. CARTER Clerk, by *(Secretario)* M. Soto, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL]

AUG 0 7 2015

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☒ on behalf of *(specify)*: Valspar corporation

under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*: 2:57 pm

4. ☒ by personal delivery on *(date)*: 08-17-15

Martin Dean's ESSENTIAL FORMS™

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
NOTICE OF CASE ASSIGNMENT - UNLIMITED CIVIL PERSONAL INJURY CASE

Case Number ______________________________

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT BC 5 9 0 3 9 8

Your case is assigned for all purposes to the judicial officer indicated below (Local Rule 3.3(c)).

	ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
X	Hon. Michael J. Raphael	91	632			
	Hon. Elia Weinbach	92	633			
	Hon. Howard L Halm	93	631			
	Hon. Teresa Beaudet	97	630			
	FSC: 0 1 / 2 0 / 2017 TRIAL: 0 2 / 0 7 / 2017 OSC: 0 8 / 0 7 / 2018					

Given to the Plaintiff/Cross-Complainant/Attorney of Record on ______________ SHERRI R. CARTER, Executive Officer/Clerk

LACIV PI 190 (Rev12/14) SHERRI R. CARTER
LASC Approved 05-06
For Optical Use

By M. Soto, Deputy Clerk

FILED
LOS ANGELES SUPERIOR COURT

JAN 26 2015

SHERRI R. CARTER, EXECUTIVE OFFICER/ CLERK
BY C. CASAREZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In re Personal Injury Cases Assigned to the Personal Injury Courts (Departments 91, 92, 93, and 97)	Case No.: FOURTH AMENDED GENERAL ORDER RE PERSONAL INJURY COURT ("PI Court") PROCEDURES (Effective as of January 26, 2015)

DEPARTMENT: 91 92 93 97

FINAL STATUS CONFERENCE ("FSC"):

- **Date: ____________________ at 10:00 a.m.**

TRIAL:

- **Date: ____________________ at 8:30 a.m.**

OSC re DISMISSAL (Code Civ. Proc., § 583.210):

- **Date: ____________________ at 8:30 a.m.**

TO EACH PARTY AND TO THE ATTORNEY OF RECORD FOR EACH PARTY:

Pursuant to the California Code of Civil Procedure ("C.C.P."), the California Rules of Court, and the Los Angeles County Court Rules ("Local Rules"), the Los Angeles Superior Court ("LASC" or "Court") HEREBY AMENDS AND SUPERSEDES ITS November 10, 2014 AMENDED GENERAL ORDER AND

GENERALLY ORDERS AS FOLLOWS IN THIS AND ALL OTHER GENERAL JURISDICTION PERSONAL INJURY ACTIONS:

Effective March 18, 2013, the Court responded to systemic budget reductions by centralizing the management of more than 18,000 general jurisdiction personal injury cases in the Stanley Mosk Courthouse. LASC opened three Personal Injury Courts ("PI Courts") (Departments 91, 92 and 93), and on January 6, 2014, a fourth (Department 97) to adjudicate all pretrial matters for these cases. It also established a Master Calendar Court (Department One), to manage the assignment of trials to dedicated Trial Courts located countywide. This Amended General Order lays out the basic procedures for the PI Courts' management of pretrial matters. The parties will find additional information about the PI Courts on the court's website, *www.lacourt.org*.

1. To ensure proper assignment to a PI Court, Plaintiff(s) must carefully fill out the Civil Case Cover Sheet Addendum (form LACIV 109). The Court defines "personal injury" as:

> "an unlimited civil case described on the Civil Case Cover Sheet Addendum and Statement of Location (LACIV 109) as Motor Vehicle-Personal Injury/Property Damage/Wrongful Death; Personal Injury/Property Damage/Wrongful Death-Uninsured Motorist; Product Liability (other than asbestos or toxic/environmental); Medical Malpractice-Physicians & Surgeons; Other Professional Health Care Malpractice; Premises Liability; Intentional Bodily Injury/Property Damage/Wrongful Death; or Other Personal Injury/Property Damage/Wrongful Death. An action for intentional infliction of emotional distress, defamation, civil rights/discrimination, or malpractice (other than medical malpractice), is not included in this definition. An action for injury to real property is not included in this definition." Local Rule 2.3(a)(1)(A).

The Court will assign a case to the PI Courts if plaintiff(s) check any of the following boxes in the Civil Case Cover Sheet Addendum:

A7100 Motor Vehicle – Personal Injury/Property Damage/Wrongful Death

A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist

A7260 Product Liability (not asbestos or toxic/environmental)

A7210 Medical Malpractice – Physicians & Surgeons

A7240 Medical Malpractice – Other Professional Health Care Malpractice

A7250 Premises Liability (e.g., slip and fall)

A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism etc.)

A7220 Other Personal Injury/Property Damage/Wrongful Death

The Court will not assign cases to the PI Courts if plaintiff(s) check any boxes elsewhere in the Civil Case Cover Sheet Addendum (any boxes on pages two and three of that form).

2. The Court sets the above dates in this action in the PI Court circled above (Department 91, 92, 93, or 97) at the Stanley Mosk Courthouse, 111 North Hill Street, Los Angeles, CA 90012. Cal. Rules of Court, Rules 3.714(b)(3), 3.729.

SERVICE OF SUMMONS AND COMPLAINT

3. Plaintiff(s) shall serve the summons and complaint in this action upon defendant(s) as soon as possible but not later than three years from the date when the complaint is filed. C. C. P. § 583.210, subd. (a). On the OSC re Dismissal date noted above, the PI Court will

dismiss the action and/or all unserved parties unless the plaintiff(s) show cause why the action or the unserved parties should not be dismissed. C.C.P. §§ 583.250; 581, subd. (b)(4).

4. The Court sets the above trial and FSC dates on condition that plaintiff(s) effectuate service on defendant(s) of the summons and complaint within six months of filing the complaint.

5. The PI Court will dismiss the case without prejudice pursuant to C.C.P. § 581 when no party appears for trial.

STIPULATIONS TO CONTINUE TRIAL

6. Provided that all parties agree (and there is no violation of the "five-year rule," C.C.P. § 583.310), the parties may advance or continue any trial date in the PI Courts without showing good cause or articulating any reason or justification for the change. To continue or advance a trial date, the parties (or their counsel of record) should jointly execute and file (in Room 102 of the Stanley Mosk Courthouse; fee required) a Stipulation to Continue Trial, FSC and Related Motion/Discovery Dates (form available on the court's website, Personal Injury Court link). The PI Courts schedule FSCs for 10:00 a.m., eight court days before the trial date. Parties seeking to continue the trial and FSC dates shall file the Stipulation at least eight court days before the FSC date. Parties seeking to advance the trial and FSC dates shall file the Stipulation at least eight court days before the proposed advanced FSC date. Code Civ. Proc., § 595.2; Govt. Code § 70617, subd. (c)(2). In selecting a new trial date, parties should avoid setting on any Monday, or the Tuesday following a court holiday.

NO CASE MANAGEMENT CONFERENCES

7. The PI Courts do not conduct Case Management Conferences. The parties need not file a Case Management Statement.

LAW AND MOTION

ALL DOCUMENTS WITH DECLARATIONS AND/OR EXHIBITS MUST BE TABBED. CRC §3.1110(f)

ALL DEPOSITION EXCERPTS REFERENCED IN BRIEFS MUST BE MARKED ON THE TRANSCRIPTS ATTACHED AS EXHIBITS. CRC §3.1116(c)

If your filing is not tabbed or depositions are not marked, do not file without the tabs or marked depositions unless today is the last day for filing. If so, you must file a tabbed/marked copy with the clerk in the department where your motion will be heard within 2 court days.

Chambers Copies Required

8. In addition to filing original motion papers in Room 102 of the Stanley Mosk Courthouse, the parties must deliver, directly to the PI Court courtrooms, an extra copy (marked "Chambers Copy") of reply briefs and all other motion papers filed less than seven court days before a hearing calendared in the PI Courts. The PI Courts also strongly encourage the parties filing and opposing lengthy motions, such as motions for summary judgment/adjudication, to submit one or more three-ring binders organizing the Chambers Copies behind tabs.

Reservation of Hearing Date

9. Parties are directed to reserve hearing dates for motions in the PI Courts using the Court Reservation System (CRS) available online at *www.lacourt.org* (link on homepage). After reserving a motion hearing date, the reservation requestor must submit the papers for filing with the reservation receipt number printed on the face page of the document under the caption and attach the reservation receipt as the last page. Parties or counsel who are unable

to utilize the online CRS may reserve a motion hearing date by calling the PI Court courtroom, Monday through Friday, between 3:00 p.m. and 4:00 p.m.

Withdrawal of Motion

10. California Rules of Court, Rule 3.1304(b) requires a moving party to notify the court immediately if a matter will not be heard on the scheduled date. In keeping with that rule, the PI Courts urge parties who amend pleadings in response to demurrers to file amended pleadings before the date when opposition to the demurrer is due so that the PI Courts do not needlessly prepare tentative rulings on demurrers.

Discovery Motions

11. The purpose of an Informal Discovery Conference ("IDC") is to assist the parties to resolve and/or narrow the scope of discovery disputes. Lead trial counsel on each side, or another attorney with full authority to make binding agreements, must attend in person. The PI judges have found that, in nearly every case, the parties amicably resolve disputes with the assistance of the Court.

12. Parties **must** participate in an IDC **before** a Motion to Compel Further Responses to Discovery will be heard, unless, the moving party submits evidence, by way of declaration, that the opposing party has failed or refused to participate in an IDC. Scheduling or participating in an IDC does not extend any deadlines imposed by the Code of Civil Procedure for noticing and filing discovery motions. Ideally, the parties should participate in an IDC before a motion is filed because the IDC may avoid the necessity of a motion or reduce its scope. Because of that possibility, attorneys are encouraged to stipulate to extend the 45 (or 60) day deadline for filing a motion to compel further discovery responses in order to allow time to participate in an IDC. If parties do not stipulate to extend the deadlines, the

moving party may file the motion to avoid it being deemed untimely. However, the IDC must take place before the motion is heard so it is suggested that the moving party reserve a date for the motion hearing that is at least 60 days after the date when the IDC reservation is made. Motions to Compel Further Discovery Responses are heard at 10:00 a.m. If the IDC is not productive, the moving party may advance the hearing on a Motion to Compel Further Discovery Responses on any available hearing date that complies with the notice requirements of the Code of Civil Procedure.

13. Parties are directed to reserve IDC dates in the PI Courts using CRS available online at *www.lacourt.org* (link on homepage). Parties are to meet and confer regarding the available dates in CRS prior to accessing the system. After reserving the IDC date, the reservation requestor must file in the appropriate department and serve an Informal Discovery Conference Form for Personal Injury Courts, form LACIV 239 (revised 12/14 or later), at least 15 court days prior to the conference and attach the CRS reservation receipt as the last page. The opposing party may file and serve a responsive IDC Form, briefly setting forth that party's response, at least 10 court days prior to the IDC.

14. Time permitting; the PI Hub judges may be available to participate in IDCs to try to resolve other types of discovery disputes.

Ex Parte Applications

15. Under the California Rules of Court, courts may only grant *ex parte* relief upon a showing, by admissible evidence, that the moving party will suffer "irreparable harm," "immediate danger," or where the moving party identifies "a statutory basis for granting relief ex parte." Cal. Rules of Court, Rule 3.1202(c). The PI Courts have no capacity to hear multiple *ex parte* applications or to shorten time to add hearings to their fully booked motion

calendars. The PI Courts do not regard the Court's unavailability for timely motion hearings as an "immediate danger" or threat of "irreparable harm" justifying *ex parte* relief. Instead of seeking *ex parte* relief, counsel should reserve the earliest available motion hearing date, and stipulate with all parties to continue the trial to a date thereafter using the Stipulation to Continue Trial, FSC and Related Motion/Discovery Dates (form available on the court's website, PI Court Tab). Counsel should also check the CRS from time to time because earlier hearing dates may become available as cases settle or counsel otherwise take hearings off calendar.

REQUEST FOR TRANSFER TO INDEPENDENT CALENDAR DEPARTMENT

16. Parties seeking to transfer a case from a PI Court to an Independent Calendar ("I/C") Court shall file (in Room 102 of the Stanley Mosk Courthouse) and serve the Court's "Motion to Transfer Complicated Personal Injury Case to Independent Calendar Court" (form available on the Court's website, PI Courts link). The PI Courts will transfer a matter to an I/C Court if the case is not a "Personal Injury" case as defined in the General Order re General Jurisdiction PI Cases, or if it is "complicated." In determining whether a personal injury case is "complicated", the PI Courts will consider, among other things, the number of pretrial hearings or the complexity of issues presented.

17. Parties opposing a motion to transfer have five court days to file (in Room 102) an Opposition (using the same Motion to Transfer form).

18. The PI Courts will not conduct a hearing on any Motion to Transfer to I/C Court. Although the parties may stipulate to transfer a case to an Independent Calendar Department, the PI Courts will make an independent determination whether to transfer the case or not.

GENERAL ORDER – FINAL STATUS CONFERENCE

19. Parties shall comply with the requirements of the PI Courts' "Amended General Order – Final Status Conference," which shall be served with the summons and complaint.

JURY FEES

20. Parties must pay jury fees no later than 365 calendar days after the filing of the initial complaint. (Code Civ. Proc., § 631, subds. (b) and (c).)

JURY TRIALS

21. The PI Courts do not conduct jury trials. On the trial date, a PI Court will transfer the case to the Master Calendar Court in Department One in the Stanley Mosk Courthouse. Department One assigns cases out for trial to dedicated Trial Courts.

SANCTIONS

22. The Court has discretion to impose sanctions for any violation of this general order. (C.C.P. §§ 128.7, 187 and Gov. Code, § 68608, subd. (b).)

Dated: January 26, 2015

Kevin C. Brazile
Kevin C. Brazile
Supervising Judge, Civil
Los Angeles Superior Court

FILED
LOS ANGELES SUPERIOR COURT

JAN 26 2015

SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK
BY C. CASAREZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

In re Personal Injury Cases Assigned to the Personal Injury Courts (Departments 91, 92, 93, and 97),	Case No.: ______________ THIRD AMENDED GENERAL ORDER - FINAL STATUS CONFERENCE, PERSONAL INJURY ("PI") COURTS (Effective as of January 26, 2015)

The dates for Trial and Final Status Conference ("FSC") having been set in this matter, the Court **HEREBY AMENDS AND SUPERSEDES ITS April 4, 2014 AMENDED GENERAL ORDER – FINAL STATUS CONFERENCE AND GENERALLY ORDERS AS FOLLOWS IN THIS AND ALL OTHER GENERAL JURISDICTION PERSONAL INJURY ACTIONS:**

1. PURPOSE OF THE FSC

The purpose of the FSC is to verify that the parties/counsel are completely ready to proceed with trial continuously and efficiently, from day to day, until verdict. The PI Courts will verify at the FSC that all parties/counsel have (1) prepared the Exhibit binders and Trial Document binders and (2) met and conferred in an effort to stipulate to ultimate facts, legal issues, motions *in limine*, and the authentication and admissibility of exhibits.

2. TRIAL DOCUMENTS TO BE FILED

At least five calendar days prior to the Final Status Conference, the parties/counsel shall serve and file (in Room 102 of the Stanley Mosk Courthouse) the following Trial Readiness Documents:

A. TRIAL BRIEFS (OPTIONAL)

Each party/counsel may file, but is not required to file, a trial brief succinctly identifying:

(1) the claims and defenses subject to litigation;

(2) the major legal issues (with supporting points and authorities);

(3) the relief claimed and calculation of damages sought; and

(4) any other information that may assist the court at trial.

B. MOTIONS *IN LIMINE*

Before filing motions *in limine*, the parties/counsel shall comply with the statutory notice provisions of Code of Civil Procedure ("C.C.P.") Section 1005 and the requirements of Los Angeles County Court Rule ("Local Rule") 3.57(a). The caption of each motion *in limine* shall concisely identify the evidence that the moving party seeks to preclude. Parties filing more than one motion *in limine* shall number them consecutively. Parties filing opposition and reply papers shall identify the corresponding motion number in the caption of their papers.

C. JOINT STATEMENT TO BE READ TO THE JURY

For jury trials, the parties/counsel shall work together to prepare and file a joint written statement of the case for the court to read to the jury. Local Rule 3.25(i)(4).

D. JOINT WITNESS LIST

The parties/counsel shall work together to prepare and file a joint list of all witnesses that each party intends to call (excluding impeachment and rebuttal witnesses). Local Rule 3.25(i)(5). The joint witness list shall identify each witness by name, specify which witnesses are experts, and estimate the length of the direct, cross examination re-direct examination (if any) of each witness. The parties/counsel shall identify and all potential witness scheduling issues and special requirements. Any party/counsel who seeks to elicit testimony from a witness not identified on the witness list must first make a showing of good cause.

E. LIST OF PROPOSED JURY INSTRUCTIONS (JOINT AND CONTESTED)

The parties/counsel shall jointly prepare and file a list of proposed jury instructions, organized in numerical order, specifying the instructions upon which all sides agree and the contested instructions, if any. The Joint List of Jury Instructions must include a space by each instruction for the judge to indicate whether the instruction was given.

F. JURY INSTRUCTIONS (JOINT AND CONTESTED)

The parties/counsel shall prepare a complete set of full-text proposed jury instructions, editing all proposed California Civil Jury Instructions for Judges and Attorneys ("CACI") instructions to insert party names and eliminate blanks and irrelevant material. The parties shall prepare special instructions in a format ready for submission to the jury with the instruction number, title and text only (i.e., there should be no boxes or other indication on the printed instruction itself as to the requesting party.)

G. JOINT VERDICT FORM(S)

The parties/counsel shall prepare and jointly file a proposed general verdict form or special verdict form (with interrogatories) acceptable to all sides. If the parties/counsel cannot agree on a joint verdict form, each party must separately file a proposed verdict form. Local Rule 3.25(i)(7) and (8).

H. JOINT EXHIBIT LIST

The parties/counsel shall prepare and file a joint exhibit list organized with columns identifying each exhibit and specifying each party's evidentiary objections, if any, to admission of each exhibit. To comply with Local Rules 3.52(i)(5) and 3.53, the parties shall meet and confer in an effort to resolve objections to the admissibility of each exhibit.

3. EVIDENTIARY EXHIBITS

The parties/counsel shall jointly prepare (and be ready to temporarily lodge for inspection at the FSC), three sets of tabbed, internally paginated and properly-marked exhibits, organized numerically in three-ring binders (a set for the Court, the Judicial Assistant and the witnesses). The parties/counsel shall mark all non-documentary exhibits and insert a simple written description of the exhibit behind the corresponding numerical tab in the exhibit binder.

4. TRIAL BINDERS REQUIRED IN THE PI COURTS

The parties/counsel shall jointly prepare (and be ready to temporarily lodge for inspection at the FSC) the Trial Documents, tabbed and organized into three-ring binders as follows:

Tab A: Trial Briefs

Tab B: Motions *in limine*

Tab C: Joint Statement to Be Read to the Jury

Tab D: Joint Witness List

Tab E: Joint List of Jury Instructions (identifying the agreed upon and contested instructions)

Tab F: Joint and Contested Jury Instructions

Tab G: Joint and/or Contested Verdict Forms

The parties shall organize motions *in limine* (tabbed in numerical order) behind tab B with the opposition papers and reply papers for each motion placed directly behind the moving papers. The parties shall organize proposed jury instructions behind tab F, with the agreed upon instructions first in order followed by the contested instructions (including special instructions) submitted by each side.

5. FAILURE TO COMPLY WITH FSC OBLIGATIONS

The court has discretion to require any party/counsel who fails or refuses to comply with this General Order to Show Cause why the court should not impose monetary, evidentiary and/or issue sanctions (including the entry of a default or the striking of an answer).

Dated this 26th day of January, 2015

Kevin C. Brazile
Kevin C. Brazile
Supervising Judge, Civil
Los Angeles Superior Court

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (*Name, State Bar number, and address*):
Richard P. Petersen 136577
Law Offices of Richard P. Petersen
2015 Montrose Avenue
Montrose, CA 91020
TELEPHONE NO.: (818) 957-5832 FAX NO.(*Optional*): (818) 541-9165
E-MAIL ADDRESS (*Optional*):
ATTORNEY FOR (*Name*): Rebecca Rust

FOR COURT USE ONLY

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

AUG 07 2015

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA 90012
BRANCH NAME: Central District

PLAINTIFF: Rebecca Rust, an individual

DEFENDANT: Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation

[X] DOES 1 TO 25

COMPLAINT-Personal Injury, Property Damage, Wrongful Death

[ ] AMENDED (*Number*) :

Type (*check all that apply*) :

[ ] MOTOR VEHICLE [ ] OTHER (*specify*) :
[ ] Property Damage [ ] Wrongful Death
[X] Personal Injury [X] Other Damages (*specify*) :
Products Liability

Jurisdiction (*check all that apply*) :

[ ] ACTION IS A LIMITED CIVIL CASE
Amount demanded [ ] does not exceed $10,000
[ ] exceeds $10,000, but does not exceed $25,000
[X] ACTION IS AN UNLIMITED CIVIL CASE (exceeds $25,000)
[ ] ACTION IS RECLASSIFIED by this amended complaint
[ ] from limited to unlimited
[ ] from unlimited to limited

CASE NUMBER:

BC590398

1. Plaintiff (*name or names*): Rebecca Rust, an individual

alleges causes of action against **defendant** (*name or names*): Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. [ ] except plaintiff (*name*) :
(1) [ ] a corporation qualified to do business in California
(2) [ ] an unincorporated entity (*describe*) :
(3) [ ] a public entity (*describe*) :
(4) [ ] a minor [ ] an adult
(a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
(b) [ ] other (*specify*) :
(5) [ ] other (*specify*) :

b. [ ] except plaintiff (*name*) :
(1) [ ] a corporation qualified to do business in California
(2) [ ] an unincorporated entity (*describe*) :
(3) [ ] a public entity (*describe*) :
(4) [ ] a minor [ ] an adult
(a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
(b) [ ] other (*specify*) :
(5) [ ] other (*specify*) :

[ ] Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE:	CASE NUMBER:
Rebecca Rust v. Ashley Furniture Industries	

4. ☐ Plaintiff *(name)*:
is doing business under the fictitious name *(specify)*:

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant *(name)*:
Ashley Furniture Industries
(1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity *(describe)*:
(4) ☐ a public entity *(describe)*:
(5) ☐ other *(specify)*:

b. ☒ except defendant *(name)*:
Valspar Corporation
(1) ☐ a business organization, form unknown
(2) ☒ a corporation
(3) ☐ an unincorporated entity *(describe)*:
(4) ☐ a public entity *(describe)*:
(5) ☐ other *(specify)*:

c. ☐ except defendant *(name)*:
(1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity *(describe)*:
(4) ☐ a public entity *(describe)*:
(5) ☐ other *(specify)*:

d. ☐ except defendant *(name)*:
(1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity *(describe)*:
(4) ☐ a public entity *(describe)*:
(5) ☐ other *(specify)*:

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.
a. ☒ Doe defendants *(specify Doe numbers)*: 1-5 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
b. ☒ Doe defendants *(specify Doe numbers)*: 6-10 are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are *(names)*:

8. This court is the proper court because
a. ☐ at least one defendant now resides in its jurisdictional area.
b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
d. ☐ other *(specify)*:

9. ☐ Plaintiff is required to comply with a claims statute, and
a. ☐ has complied with applicable claims statutes, or
b. ☐ is excused from complying because *(specify)*:

PLD-PI-001

SHORT TITLE: Rebecca Rust v. Ashley Furniture Industries	CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each *(each complaint must have one or more causes of action attached)*:
    a. ☐ Motor Vehicle
    b. ☒ General Negligence
    c. ☐ Intentional Tort
    d. ☒ Products Liability
    e. ☐ Premises Liability
    f. ☐ Other *(specify)*:

11. Plaintiff has suffered
    a. ☐ wage loss
    b. ☐ loss of use of property
    c. ☒ hospital and medical expenses
    d. ☒ general damage
    e. ☐ property damage
    f. ☐ loss of earning capacity
    g. ☐ other damage *(specify)*:

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
    a. ☐ listed in Attachment 12.
    b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
    a. (1) ☒ compensatory damages
    (2) ☐ punitive damages
    The amount of damages is *(in cases for personal injury or wrongful death, you must check (1))*:
    (1) ☒ according to proof
    (2) ☐ in the amount of: $

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows *(specify paragraph numbers)*:

Date: 8-3-15

Richard P. Petersen
(TYPE OR PRINT NAME)

▶ [signature]
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

Martin Dean's ESSENTIAL FORMS™

PLD-PI-001(2)

SHORT TITLE: Rebecca Rust v. Ashley Furniture Industries	CASE NUMBER:

FIRST (number) **CAUSE OF ACTION- General Negligence** Page 4

ATTACHMENT TO [X] Complaint [ ] Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff *(name)*: Rebecca Rust, an individual

alleges that defendant *(name)*: Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation

[X] Does 1 to 25

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on *(date)*: August 31, 2014

at *(place)*: 7005 Elmos Street. Apt. A, Tujunga, CA 91042

(description of reasons for liability) :

Defendant Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore and Valspar Corporation negligently manufactured, sold, constructed, repaired,serviced, placed in the stream of commerce, a California King storage bed, which negligence caused the slats on the bed to fail, thereby causing the bed to collapse while Plaintiff was in the bed causing Plaintiff to suffer serious physical injuries and damages.

Form Approved for Optional Use
Judicial Council of California
PLD-PI-001(2) [Rev. January 1, 2007]

CAUSE OF ACTION- General Negligence

Code of Civil Procedure 425.12
www.courtinfo.ca.gov

Martin Dean's ESSENTIAL FORMS™

PLD-PI-001(5)

SHORT TITLE: Rebecca Rust v. Ashley Furniture Industries	CASE NUMBER:

SECOND (number) **CAUSE OF ACTION- Products Liability** Page 5

ATTACHMENT TO [X] Complaint [ ] Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff *(name)*: Rebecca Rust

Prod. L-1. On or about *(date)*: August 31, 2014 plaintiff was injured by the following product:
California King storage bed

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

[X] used in the manner intended by the defendants.

[ ] used in a manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

[X] purchaser of the product.
[X] user of the product.
[ ] bystander to the use of the product.
[ ] other *(specify)*:

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. [X] **Count One-Strict liability** of the following defendants who

a. [X] manufactured or assembled the product *(names)*:
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore
[X] Does 1 to 5

b. [X] designed and manufactured component parts supplied to the manufacturer *(names)*:
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore
[X] Does 6 to 10

c. [X] sold the product to the public *(names)*:
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore
[X] Does 11 to 15

Prod. L-5. [X] **Count Two-Negligence** of the following defendants who owed a duty to plaintiff *(names)*:
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation
[X] Does 16 to 20

Prod. L-6. [X] **Count Three-Breach of warranty** by the following defendants *(names)*:
Ashley Furniture Industries, Inc., dba Ashley Furniture Homestore; Valspar Corporation
[X] Does 21 to 25

a. [X] who breached an implied warranty

b. [X] who breached an express warranty which was
[X] written [ ] oral

Prod. L-7. [ ] The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are
[ ] listed in Attachment-Prod. L-7 [ ] as follows:

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